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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,518	04/13/2000	Wallace H. Peterson	P9169	6810

7590 02/10/2004

Todd N Hathaway
119 N Commercial Street
#620
Bellingham, WA 98226-4437

EXAMINER

NGUYEN, CHI Q

ART UNIT PAPER NUMBER

3635

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/548,518

Applicant(s)

PETERSON, WALLACE H.

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 18 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 2-17, 19-30, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

This Office action is in response to the applicant's paper filed on 11/28/03.

Claims 1, 18, 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Briggs (US 3,114,179).

Briggs teaches heat-insulated metal framed closure comprising first, second glass panes 30, 32 having inner surfaces, a spacer frame 12 having first, second sidewall portions 14, 16, a flexible transverse wall portion 22 interconnecting sidewall portions, 14, 16. The flexible transverse wall portion 22 is flexing of sidewall portions, which thus provides movement of the sidewall portions 14, 16 inwardly and outwardly, a sealing member 26 (fig. 1, cols. 2-3).

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Briggs (US 3,114,179) in view of Kessler (US 4,222,213).

Briggs teaches heat-insulated metal framed closure comprising first, second glass panes 30, 32 having inner surfaces, a spacer frame 12 having first, second sidewall portions 14, 16, a flexible transverse wall portion 22 interconnecting sidewall portions, 14, 16. The flexible transverse wall portion 22 is flexing of sidewall portions, which thus provides movement of the sidewall portions 14, 16 inwardly and outwardly, a sealing member 26 (fig. 1, cols. 2-3).

Briggs does not teach frame is made of roll-formed sheet aluminum alloy material. Kessler teaches insulating spacer for double insulated glass including a metal

spacer or frame 12, which made from roll-formed aluminum (see col. 3, lines 19-20). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Briggs with Kessler for the frame made from roll-formed aluminum. The motivation for doing so would have been to provide lightweight for the frame and preventing corrosion.

Allowable Subject Matter

Claims 2-17, 19-30, and 34-35 are previously allowed.

Response to Arguments

Applicant's arguments filed 11/28/03 that the Briggs does not show the sidewall portions 14, 16 are not for engaging inner surfaces of the glass panes and does not support the sidewall portions and only for pressing against the outer surfaces of the panes have been fully considered but they are not persuasive. Because the applicant's claim 1 is drawn only to a spacer frame, the first and second glass panes are not positively claimed. The applicant's argument appears to be intended use of a device; and since the Brigg's spacer structure has shown the similar structural element, thus it capable to perform the similar function such as support the glass panes. Therefore, the examiner considers the rejection is proper made.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

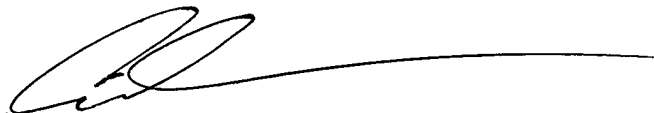
Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

1113.



CQN
2/5/04



Carl D. Friedman
Supervisory Patent Examiner
Group 3600